



MARYLAND COMMISSIONER OF FINANCIAL REGULATION INDUSTRY ADVISORY



May 12, 2020

PRIORITY OF LIENS IN MORTGAGE REFINANCING

During its 2020 session, the General Assembly passed House Bill 314, which became effective by the operation of law (163 Md. Laws 2020). Codified within Md. Code Ann., Real Property §7-112, and effective June 1, 2020, the new law relates to the priority of liens when a first mortgage loan is refinanced.

Currently, if a first mortgage loan is refinanced at a lower interest rate, and the principal amount of the new loan does not exceed the unpaid outstanding principal balance of the loan being refinanced plus \$5,000 or less to pay closing and escrow costs, §7-112(b) of the Real Property Article provides that the mortgage or deed of trust securing the new loan retains priority over any junior lien of \$150,000 or less; it is not necessary for the refinance lender to obtain the permission of the junior lienholder(s) for the mortgage or deed of trust to retain first lien position.

The new law modifies the above provision, stating that the first lien priority rule it establishes does not apply if a junior lien is in favor of a State or local government agency and secures a note at a 0% interest rate. In other words, a mortgage or deed of trust securing a refinanced first mortgage loan will not retain priority over such a junior government lien unless the refinance lender obtains from the holder of such a junior lien the necessary permission to retain priority (i.e., a subordination agreement).

The current law will remain in effect in all other respects.

If you have any questions, you may contact Clifford Charland, Director of Non-Depository Operations, by e-mail at clifford.charland@maryland.gov, or by telephone at 410-230-6167.



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